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8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. R-2109

12 DUKE ROCKY TREJOS
3734 N. Shandin Drive
13 San Bernardino, California 92407

A C C U S A T I O N

14 Respiratory Care Practitioner License No. 8499

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Respiratory Care Board of California (Board),
21 Department of Consumer Affairs.

22 2. On or about August 2, 1985, the Board issued Respiratory Care
23 Practitioner License Number 8499 to Duke Rocky Trejos (Respondent). This license was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2008, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the
28 following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 4. Section 3710 of the Code provides:

3 “The Respiratory Care Board of California, hereafter referred to as
4 the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory
5 Care Practice Act].”

6 5. Section 3718 of the Code provides:

7 “The board shall issue, deny, suspend, and revoke licenses to
8 practice respiratory care as provided in this chapter.”

9 6. Section 3750 of the Code provides:

10 “The board may order the denial, suspension or revocation of, or the
11 imposition of probationary conditions upon, a license issued under this chapter, for any of
12 the following causes:

13 “ . . .

14 “(k) Falsifying, or making grossly incorrect, grossly inconsistent, or
15 unintelligible entries in any patient, hospital, or other record.

16 “ . . .

17 “(m) Denial, suspension, or revocation of any license to practice by
18 another agency, state, or territory of the United States for any act or omission that would
19 constitute grounds for the denial, suspension, or revocation of a license in this state.

20 “”

21 7. Section 3750.5 of the Code provides:

22 “In addition to any other grounds specified in this chapter, the board may
23 deny, suspend, or revoke the license of any applicant or license holder who has done any
24 of the following:

25 “ . . .

26 “(f) Falsified, or made grossly incorrect, grossly inconsistent, or
27 unintelligible entries in any hospital, patient, or other record pertaining to the
28 substances described in subdivision (a).”

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1 incorrect entries in patient records related to the administration or disposition of those
2 controlled substances; and, that his conduct constituted both gross negligence and
3 incompetence.

4 B. On December 4, 2004, Respondent admitted that he falsified
5 or made grossly incorrect entries in patient records related to the administration or
6 disposition of Ativan and Demerol, controlled substances, as charged in the
7 “Second Cause for Discipline” of Accusation brought before the BRN in Case No.
8 2002-163 and further admitted that:

9 “[] On April 3, 1999, at 10:30 a.m., he signed out 4 mgs of
10 Ativan, a controlled substance, for [Patient No. 5039560], charted the wastage of 1
11 mg of Ativan, but failed to chart the administration of the remaining 3 mgs of the
12 Ativan in the patient’s medication administration record or nurses[’] notes, or
13 otherwise account for the disposition of the remaining Ativan in any hospital
14 record.

15 “[] On April 3, 1999, at 6:35 p.m., he signed out 4 mgs of
16 Ativan, a controlled substance, for [Patient No. 5039560], but failed to chart the
17 administration of any portion of the Ativan in the patient’s medication
18 administration record or nurses[’] notes, or otherwise account for the disposition of
19 the Ativan in any hospital record.

20 “[] On April 4, 1999, at 10:00 a.m., he signed out 75 mgs of
21 Demerol, a controlled substance, for [Patient No. 9206143], when there was no
22 physician’s order, failed to chart the wastage of the 75 mgs of Demerol, or
23 otherwise account for the disposition of the Demerol in any hospital record.

24 “[] On April 4, 1999, at 8:00 a.m., he signed out 50 mgs of
25 Demerol, a controlled substance, for [Patient No. 5000463], but failed to chart the
26 administration of any portion of the Demerol in the patient’s medication
27 administration record or nurses[’] notes, or otherwise account for the disposition of
28 the Demerol in any hospital record.

1 “[] On April 4, 1999, at 4:00 p.m., he signed out 4 mgs of
2 Ativan, a controlled substance, for [Patient No. 5019838], when there was no
3 physician’s order, failed to chart the wastage of the Ativan or otherwise account for
4 the disposition of the Ativan in any hospital record.

5 “[] On April 4, 1999, at 6:30 p.m., he signed out 75 mgs of
6 Demerol, a controlled substance, for [Patient No. 5019838], but failed to chart the
7 administration of any portion of the . . . Demerol in the patient’s medication
8 administration record or nurses[’] notes, or otherwise account for the disposition of
9 the Demerol in any hospital record.”

10 C. Based on Respondent’s admissions, set forth in
11 subparagraph B, above, and pursuant to a Stipulated Settlement and Disciplinary
12 Order, adopted by the BRN, effective December 8, 2003, Respondent’s license was
13 revoked for having violated Business and Professions Code section 2762,
14 subdivision (e), with the revocation being stayed and Respondent placed on
15 probation for three (3) years with certain terms and conditions.

16 D. On or about November 28, 2006, *In the Matter of the Petition to*
17 *Revoke the Probation of DUKE ROCKY TREJOS*, Case No. 2002-163, brought before the
18 BRN, it was alleged that Respondent failed to comply with the Board’s probation program
19 (condition 3), failed to function as a registered nurse (condition 7), failed to comply with
20 employment approval and reporting requirements (condition 8), failed to comply with
21 supervision requirements (condition 9), failed to comply with employment limitations
22 (condition 10), failed to complete a nursing course (condition 11), and failed to pay cost
23 recovery (condition 12).

24 E. Following an administrative hearing that was conducted on or about
25 March 12, 2007, an administrative law judge found that Respondent had violated
26 probation conditions 3, 7, 8, 9, 10, and 11 and issued a proposed decision revoking
27 Respondent’s Registered Nurse License. The BRN adopted the administrative law
28 judge’s proposed decision as its Decision and Order, effective July 20, 2007.

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License Number
5 8944 issued to Duke Rocky Trejos;

6 2. Ordering Duke Rocky Trejos to pay the Respiratory Care Board the costs of
7 the investigation and enforcement of this case, and if placed on probation, the costs of probation
8 monitoring; and,

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: October 22, 2007

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13 Original signed by Liane Zimmerman for:
14 STEPHANIE NUNEZ
15 Executive Officer
16 Respiratory Care Board of California
17 Department of Consumer Affairs
18 State of California

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Complainant